



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 27 1989

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Gregory P. Underwood
Senior Environmental Engineer
Clayton Environmental Consultants, Ltd.
949 McDougall
Windsor, Ontario N9A 1L9

Dear Mr. Underwood:

This responds to your December 22, 1988 letter to the Office of Underground Storage Tanks requesting clarification of EPA's final regulations for reporting releases from underground storage tanks (40 CFR Part 280, Subpart E). I hope this provides the clarifications you need.

Under these new regulations, any leak that is discovered must be reported immediately to the implementing agency and action undertaken by the owner and operator to stop additional releases. For example, the preamble to this section of the rule (53 FR September 23, 1988, p.37170) describes that the discovery of a Suspected release due to off-site impacts, or the physical presence of a release in the environment, warrants reporting. Also, under some condition, it may be necessary to report inventory discrepancies immediately (such as a significant drop in inventory level overnight). Otherwise, because of the inexactness of this method, inventory discrepancies must be reported only after being confirmed by a second month of data.

In your letter you suggest that an owner and operator does not have to report a suspected release under 280.50(c), unless the monitoring method detecting the release is required to be phased in under the "schedule for phase-in of release detection" in 280.40(c). We do not share this interpretation. EPA requires suspected release reporting regardless of whether a method of detection was used earlier than the regulation's minimum compliance phase-in dates. Non-reporting would be a violation of 280.50(c) which mandates owner and operator reporting of monitoring results indicating a suspected release.

There are two caveats to the above general requirement for reporting all suspected releases. First, suspected release reporting is not required if the check of the device shows it to be defective and its immediate repair, recalibration, or replacement does not confirm the initial result (280.50(c)(1)). Second, suspected release reporting is not required if the release detection method used is not one of the general types of methods specified under 280.41 and 280.42 and therefore, cannot be used to comply with the final rule's requirements for release detection. For example, if an owner and operator practices inventory control and reconciles the data monthly in accordance with the standard in 280.43(a), a suspected release must be reported to the implementing agency

when the second month of data confirms the initial result (using the criterion in 280.43(a)). However, if an extensive inventory analysis service is provided to the owner and operator which claims to be able to detect a 0.1 gallons per hour leak, such a "suspected release" under this vendor provided (not EPA required) method would not have to be reported because EPA has not accepted such results as a valid indicator of a possible release. In this second case, the "suspected release" results are not due to an EPA required method and are therefore not considered valid for leak detection purposes under the rules.

In summary, whether or not an owner and operator conducts monitoring before the regulatory minimum compliance due dates, a suspected release must be reported within 24 hours (or some other reasonable time frame specified by the implementing agency) if it is discovered using one of the EPA required methods that are specified in 280.41 and 280.42. EPA has not intended to allow corrective actions (under Subpart F) identified as needed at specific UST sites to be delayed by the phase-in dates for the required release detection. whenever an UST release is discovered or legitimately suspected it must be reported, confirmed and dealt with in accordance with the appropriate sections of the final rules.

Your letter suggests that owners and operators will be discouraged from undertaking monitoring earlier than is required if they have to report and deal with any releases that are thereby discovered. EPA has concluded that timely responses to suspected releases (while the extent of contamination is still limited) is in the best financial interest of the owner and operator because it is the approach most likely to avoid large corrective action costs. Thus, we encourage UST owners and operators to install one of the required release detection methods as soon as possible, and we believe it is in their best interests to do so.

If I can be of any more service in this matter please let me know

Sincerely,

Dave O'Brien, Chief
Standards Branch
Office of Underground Storage Tanks